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Response After Final
Attorney Docket No. S63.2Q-7132-US02

Remarks

This is a response to the Office Action dated **October 22, 2003**. Claims 27 – 30, 33 – 39, 41 – 43, 45 and 46 are pending in this application. The Office Action rejected claims 27 – 30, 33 – 39, 42, 43 and 46 under 35 USC § 102 over US 5525388 to Wand et al. (hereinafter “Wand”). The Office Action also rejected claims 41 and 45 under 35 USC § 103 over Wand.

Reconsideration in view of the following remarks is respectfully requested.

Claim Rejections

The Office Action rejects, under 35 USC § 102, claims 27 – 30, 33 – 39, 42, 43 and 46 over Wand. The Office Action also rejects, under 35 USC § 103, claims 41 and 45 over Wand. These rejections are traversed.

“A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference” (MPEP §2131, citing *Verdegaal Bros. v. Union Oil Co. of California*, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987)).

Applicants assert that Wand does not disclose or suggest a balloon meeting the structural limitations of any of the claims pending in the application.

Wand discloses a balloon 12 having a cylindrical working section 20, tapered sections 21, 22 and skirts or waists 23, 24. See Figure 4. The cylindrical working section 20 and tapered sections 21, 22 have essentially the same wall thickness, while the waist portions 23, 24 have a thicker wall than the cylindrical working section 20 or the tapered sections 21, 22. See column 2, lines 16 – 26 and column 3, lines 61 – 65.

Independent claim 27 requires a balloon “wherein the wall thickness of at least one balloon segment selected from the group consisting of the proximal waist, the proximal cone, the distal cone and the distal waist segments is less than the body wall thickness.” Independent claim 33 requires a balloon “wherein at least one of the proximal waist wall thickness and the distal waist wall thickness is no thicker than at least one of the proximal cone wall thickness, the distal cone wall thickness, and the body wall thickness.” Independent claim 42 requires “the

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proximal waist wall thickness being no thicker than the proximal cone wall thickness." Wand does not disclose or suggest a balloon meeting these limitations.

Wand does disclose a parison 30 at Figure 5. The parison 30 may be modified to produce the balloon of Figure 4. The parison 30 includes a relatively thick middle portion 31 and end portions 32 and 33 which have tapered walls. See column 4, lines 7 – 13. The parison 30 may be blown into a balloon 12 by subjecting the parison 30 to elevated temperatures and inflating the parison 30 with inflation fluid at high pressures within a mold. See column 4, lines 16 – 23.

Applicants assert that the parison disclosed in Wand is not a balloon, and thus does not anticipate the claims of the present application. A person of ordinary skill in the art would understand that a parison is by definition a precursor to a balloon, and that a parison is not capable of functioning as a medical balloon. A parison generally must be blown at high temperatures under high pressures in order to transform into a balloon.

Thus, Wand does not disclose or suggest a balloon that anticipates any of independent claims 27, 33 or 42. Claims 28 – 30 depending from independent claim 27; claims 34 – 39 and 41 depending from independent claim 33; and claims 43, 45 and 46 depending from independent claim 42 are not anticipated for at least the reasons discussed with respect to independent claims 27, 33 and 42.

With respect to the rejections under 35 USC § 103, the Examiner has provided absolutely no motivation to modify the Wand balloon to arrive at the claims of the present application. Therefore, claims 41 and 45 are not made obvious in light of Wand.

In light of the above remarks, Applicants request withdrawal of the rejections under 35 USC §§ 102 and 103.

Conclusion

Based on at least the foregoing amendments and remarks, Applicants respectfully submit this application is in condition for allowance. Favorable consideration and prompt allowance of claims 27 – 30, 33 – 39, 41 – 43, 45 and 46 are earnestly solicited.

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Should the Examiner believe that anything further would be desirable in order to place this application in better condition for allowance, the Examiner is invited to contact Applicants' undersigned representative at the telephone number listed below.

Respectfully submitted,

VIDAS, ARRETT & STEINKRAUS

Date: December 18, 2003

By: _____


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